

## **REMARKS**

For the Examiner's convenience and reference, Applicant's remarks are presented in substantially the same order in which the corresponding issues were raised in the Office Action. Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. In addition, Applicant requests that the Examiner carefully review any references discussed below to ensure that Applicant's understanding and discussion of the references, if any, is consistent with the Examiner's understanding.

## **STATUS OF THE SPECIFICATION**

The specification stands objected because the title is not descriptive. The title is amended to more clearly indicate the subject matter of the invention.

The specification is also amended to address some spelling and grammatical instances. Additionally, the detailed description is amended to include references to the user interface module, the client selection module, the job relocation module, the job execution module, and the stub software module, each of which is referenced in the claims. No other changes have been made to the specification. No new matter has been added.

## **STATUS OF THE DRAWINGS**

The drawings stand accepted. Nevertheless, Figure 2 is amended to include the user interface module, the client selection module, the job relocation module, the job execution module, and the stub software module. Each of these modules is referenced in the claims. No other changes have been made to the drawings. No new matter has been added.

## **STATUS OF THE CLAIMS**

Claims 1-32 were examined and remain pending. Claims 1-25 stand rejected under 35 U.S.C. § 112, second paragraph for failing to particularly point out and distinctly claim the

subject matter which the applicant regards as the invention. Claims 1-12, 14-22, 24, and 26-31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Number 6,128,642 to Doraswamy et al. (hereinafter “Doraswamy”) in view of U.S. Patent Number 6,813,767 to Willke (hereinafter “Willke”). Claim 13 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Doraswamy in view of Willke and in further view of U.S. Patent Number 6,711,616 to Stamm (hereinafter “Stamm”). Claim 25 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Doraswamy in view of Willke and in further view of U.S. Patent Number 6,192,388 to Cajolet (hereinafter “Cajolet”). Applicant respectfully traverses these rejections, as detailed below.

Claim 33 (now claim 32) is objected to as not complying with 37 CFR 1.126. Claim 22 is objected to as being in improper dependent form in accordance with 37 CFR 1.75(c).

Claims 1, 2, 7, 8-11, 13, 15-17, 23-28, and 32 are currently amended. Claims 3, 18, 22, and 29 are canceled. New claims 33-36 have been added. No new matter has been added.

In particular, claims 7, 11, 23, 24, 25, and 32 are amended to address grammatical issues. Claims 1, 8, 9, 10, 11, 13, 15, 16, 17, 23, 24, 25, 26, 27, 28, and 32 are amended to address antecedent basis issues. Claim 2 is amended to refer to the system health check module rather than the state awareness module. Claims 1, 8, 15, and 26 are amended to clarify that the queue types, not the clients, have individual prioritizing jobs. Dependent claims 33-36 are added to recite the limitation for each claim set that “each client comprises at least three queue types.”

#### REVIEW OF PRESENT INVENTION AND PRIOR ART

Initially, it may be instructive to review the present application in view of the prior art disclosures. The present application teaches a plurality of computer stations connected by a network. Page 12, lines 11-13. A control agent and a plurality of clients are distributed across the computer stations. Page 12, lines 14-22. In addition, the control agent may be distributed across the computer stations. Page 12, lines 17-19. The control agent includes a user interface module that receives a user request. Page 11, lines 15-16; page 17, lines 5-6. The present application further discloses the control agent includes a client selection module that determines the nature of the request using predetermined criteria and selects a client. Page 17, line 13-17.

Each client has a plurality of queue types. Page 13, lines 21-22. Exemplary queue types include asynchronous queues, synchronous queues, and exclusive queues. Page 13, lines 22-24. The present application teaches that each queue type has an individual scheme for job prioritization. Page 15, lines 1-11. In addition, the control agent includes a communication module that submits the request to the client. Page 13, lines 12-13; page 17, line 21.

In contrast, Doraswamy discloses a plurality of processing stations connected by a communications channel. Doraswamy, FIG. 1; column 4, lines 20-23. The processing stations each communicate status announcements that include a load value that describes the processing load of each processing station. Doraswamy, column 4, lines 56-59; column 5, lines 6-10. A processing station may select another processing station with a lower load value. Doraswamy, column 6, lines 47-51. Doraswamy further teaches the processing station determining the number of processing jobs to be remotely executed. Doraswamy, column 7, lines 18-20. The processing station distributes processing jobs to the selected processing station. Doraswamy, column 9, lines 50-54.

Willke teaches a central delayed transaction circuit that includes one or more transaction queues that store a transaction request. Willke, FIGS. 1 and 2, ref 125. Each transaction queue may be of a plurality of types. Willke, FIG. 3, ref. 312, 314. The transaction queue issues the transaction when a slot in an active stream context is available. Willke, abstract.

Stamm discloses distributing server computing tasks among a plurality of clients, the clients having different resource characteristics. Stamm, column 1, lines 50-54. A client monitors the client's own resource requirements and requests tasks from the server when resources are available. Stamm, column 3, line 57 to column 4, line 4.

Cajolet teaches a computer monitoring usage by a local operator. If there is no usage, a screen saver program is launched. Cajolet, column 7, lines 61-63. The screen saver program monitors a network for a distributed task request and responds that the computer may participate in the task. Cajolet, column 8, lines 17-19. The computer receives and participates in the task until interrupted by the local operator. Cajolet, column 9, lines 15-19.

#### RESPONSE TO OBJECTIONS TO CLAIM 32 UNDER CFR 1.126

Claim 33 (now claim 32) is objected to as being mis-numbered and not complying with 37 CFR § 1.126. Claim 33 is renumbered as claim 32 as suggested by the Examiner. Applicant respectfully asserts that renumbered claim 32 is in accordance with 37 CFR § 1.126.

#### RESPONSE TO OBJECTIONS TO CLAIM 22 UNDER CFR 1.75(C)

Claim 22 is objected to under 37 CFR 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant has canceled claim 22 and therefore the objection to claim 22 is moot.

#### RESPONSE TO REJECTIONS OF CLAIMS 1-25 UNDER 35 U.S.C. § 112, SECOND PARAGRAPH

Claims 1-25 stand rejected under 35 U.S.C. § 112, second paragraph for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Particularly, claims 1-25 are rejected for it being unclear in claims 1, 8, and 15 as to whether each client has a scheme for job prioritization or if each queue type on each client has a scheme for job prioritization. Applicant has amended claims 1, 8, and 15 to specify that each queue type has a scheme for job prioritization. This amendment is supported by the specification. Page 13, lines 21-22; page 15, lines 1-11, 18-23. As amended, claims 1, 8, and 15 now state "...each queue type having an individual scheme for prioritizing jobs..." Claims 1, 8, and 15, (underlining added to emphasize the current amendment). Applicant asserts that the amended claims 1-25 are in accordance with 35 U.S.C. § 112, second paragraph.

#### RESPONSE TO REJECTIONS OF CLAIMS 1-22, AND 24-31 UNDER 35 U.S.C. § 103(a)

It is well settled that the PTO has the burden to establish a *prima facie* case of obviousness. *In re Glaug*, 2002 U.S. App. Lexis 4246, \*4 (Fed. Cir. March 15, 2002); MPEP §2142. "To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art." MPEP §2143.03 (emphasis added). The Federal Circuit has held that "the 'subject matter' that must have been obvious to deny patentability

under §103 is the entirety of the claimed invention.” *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561, 1576 (Fed. Cir. 1987). Furthermore, even if all the claim limitations are taught or suggested, there must be some suggestion or motivation to combine reference teachings. *See* MPEP §2142. Applicant respectfully asserts that a *prima facie* case of obviousness has not been made because not all the elements recited in the claims are taught or suggested by the prior art and there is no teaching or suggestion in the art to produce the claimed invention.

With regard to claims 1, 8, 15, and 26, each of these claims recites selecting “...one of a plurality of clients to service the user request according to a predetermined criterion, each client comprising a plurality of queue types, each queue type having an individual scheme for prioritizing jobs.” In contrast, Willke teaches a central delayed transaction circuit that includes one or more transaction queues that store a transaction request. Willke, FIGS. 1 and 2, ref 125. In addition, Willke teaches away from queues distributed among a plurality of clients. Willke teaches “The technique is suitable for applications in peripheral component interconnect (PCI) host bridge components that emphasize read performance.” Willke, column 1, lines 63-65. Thus the present invention claims queues for each client receiving a user request while Willke teaches centralized queues. The distributed nature of the queues in the present invention sharply distinguishes the present invention from Doraswamy in view of Willke. Neither Doraswamy nor Willke teach or suggest distributed queues for each client. Willke teaches away from queues distributed among clients, teaching queues on a PCI host bridge.

With regard to claims 1, 8, 15, and 26, the Examiner has not made a *prima facie* case that includes the claimed element of each client having one or more queues. The Examiner has also not made a *prima facie* case that suggests distributing the queues of Willke to the clients of Doraswamy. Absent each client having one or more queues, or a suggestion to distribute queues to the clients, Applicant respectfully asserts that claims 1, 8, and 15 of the present invention cannot be obvious over Doraswamy in view of Willke and are allowable.

With regard to claim 10, Applicant respectfully asserts that that the Examiner has not made a *prima facie* case that includes a suggestion to combine the concepts and advantages of an asynchronous queue with the teaching of Doraswamy and Willke. Absent a suggestion of an asynchronous queue, Applicant respectfully asserts that claim 10 cannot be obvious over

Doraswamy in view of Willke and is allowable. In addition, claim 10 is allowable for depending from allowable claims.

With regard to claim 11, Applicant respectfully asserts that that the Examiner has not made a *prima facie* case that includes a suggestion to combine the concepts and advantages of a synchronous queue with the teaching of Doraswamy and Willke. Absent a suggestion of a synchronous queue, Applicant respectfully asserts that claim 11 cannot be obvious over Doraswamy in view of Willke and is allowable. In addition, claim 11 is allowable for depending from allowable claims.

With regard to claim 12, Applicant respectfully asserts that that the Examiner has not made a *prima facie* case that includes a suggestion to combine the concepts and advantages of an exclusive queue with the teaching of Doraswamy and Willke. Absent a suggestion of an exclusive queue, Applicant respectfully asserts that claim 12 cannot be obvious over Doraswamy in view of Willke and is allowable. In addition, claim 12 is allowable for depending from allowable claims.

With regard to claim 13, Applicant respectfully asserts that that the Examiner has not made a *prima facie* case that includes a suggestion to combine the teaching of stub software in Stamm with the teaching of Doraswamy and Willke. Stamm teaches away from submitting "...the user request to the selected client..." of the present invention. Instead Stamm teaches a client that requests tasks from a server. Stamm, column 3, line 57 to column 4, line 4. Because Stamm teaches away from the present invention, there is no suggestion to combine Stamm with Doraswamy and Willke. Applicant respectfully asserts that claim 13 cannot be obvious over Doraswamy in view of Willke and Stamm and is allowable. In addition, claim 13 is allowable for depending from allowable claims.

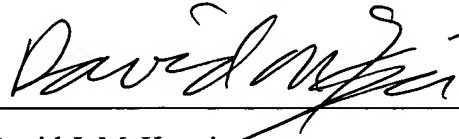
## CONCLUSION

As a result of the presented remarks, Applicant asserts that independent claims 1, 8, 15, and 26 and dependent claims 10-13 are in condition for prompt allowance. Applicant has not specifically traversed the rejections of dependent claims 1-7, 9, 14, 16-21, 24, and 27-31 under 35 U.S.C. § 103(a), but believe those claims to be allowable for depending from allowable

claims. See, *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

Applicant respectfully submits that these claims are patentable over the combination of cited references because the cited references do not teach or suggest each and every element of these claims. Accordingly, Applicant traverses these rejections as outlined above.

Respectfully submitted,

A handwritten signature in cursive script, reading "David J. McKenzie", written over a horizontal line.

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**Amendments to the Drawings:**

Please replace Figure 2 with the attached replacement drawing sheet appended to this response. The attached replacement drawing sheet replaces only Figure 2. Specifically, Figure 2 is amended to include a user interface module, a client selection module, a job relocation module, a job execution module, and a stub software module. Each of these modules is referenced in the claims. No other changes have been made to the drawings. No new matter has been added.